THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No.13799 OF 2005

Between:

Korukonda Venkata Surya Naga Eeswara Ganesh

S/o. Rambabu, aged about 28 years,

R/o. Tuni, East Godavari District. .. Appellant

AND

The Commercial Tax Officer,

Commercial Tax Department, Tuni,

East Godavari District & two others .. Respondents

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No.13799 OF 2005

ORDER: (Per Hon'ble Sri Justice S. Ananda Reddy)

This Writ Petition is filed by the petitioner seeking Writ of Mandamus declaring the letter bearing No.Re.B.823/2004, dated 29-09-2004 issued by the 1st respondent to the

2nd respondent and the check slip, dated 12-05-2005, issued by the 2nd respondent as illegal and void and consequently direct the 2nd respondent to register the sale deed executed and presented for registration by the 3rd respondent in favour of the petitioner.

According to the petitioner, he purchased an extent of Acs.9-65 cents of land in Survey Nos.146, 149, 150 and 151 situated at Pala Kothapalli Village, Kotavuratla Mandal, Visakhapatnam District, belongs to the 3rd respondent, who purchased the said property under the registered sale deed, dated 12-10-2000. According to the petitioner, the

3rd respondent had acquired the said property with his personal earnings, therefore it is the self-acquired property of the 3rd respondent. But, the 1st respondent treating the said property as the property belongs to the father of the

3rd respondent, who is said to be a defaulter, addressed the impugned letter to the 2nd respondent not to register the property in question and also not to release the document. Therefore, the petitioner has come up with the present writ petition.

After the repeated adjournments, a counter has been filed by the 1st respondent stating that the property in question was purchased by the 3rd respondent with the earnings of his father, who is stated to be defaulter, and the 3rd respondent, as legal heir of his father, has pious obligation to clear the amounts due to the department.

It is stated by the learned counsel for the petitioner that the defaulter is the father of the 3rd respondent and he is very much alive, therefore the question of treating the petitioner, as legal heir of the defaulter and has pious obligation to clear the amounts due to the department does not arise.

At the time of hearing, the learned Special Government Pleader for Commercial Taxes is directed to show the power under which the 1st respondent can issue the impugned letter. The learned counsel, though referred to Section 17-A of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act') to sustain the action of the 1st respondent, a perusal of the said provision does not show that the 1st respondent is empowered to issue the impugned letter to the 2nd respondent preventing registration of the property in question.

In view of the above legal position, as the 1st respondent is not given any power under the provisions of the Act to issue any letters, the impugned letter issued by the
1st respondent to the 2nd respondent is illegal and without jurisdiction.

For the aforesaid reasons, the impugned letter,
dated 07-10-2005, issued by the 1st respondent to the
2nd respondent and the check slip, dated 12-05-2005, issued by the 2nd respondent are set aside and the 2nd respondent is directed to register the document presented for registration by the 3rd respondent in respect of the property in question and release the same, if it is, otherwise, in accordance with law.

The Writ Petition is accordingly disposed of without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:07-10-2005.

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S. ANANDA REDDY, J

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